IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF JULY TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

And
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION Nos.

12509, 12510, 12511, 12512, 12513, 12514, 12515, 12516,

12552, 12627, 12663, 12705, 12919, 13007, 13021, 13054,

13089 and 13141 of 2005

WRIT PETITION NO : 12509 of 2005

Between:

M/s.Sharma Transports, A Proprietory Concern, Rep by its Authorized Signatory, P.Krishna Kumar, S/o. A.G.Parthasarathy,, 43 yrs, Business, R/o.11-5-422/2/3, Opp: Hanuman Temple, Red Hills, Hyderabad-4.

..... PETITIONER

AND

1 Government of A.P.,Rep by its Principal Secretary, Home Department,

Secretariat, Hyderabad.
2 The Commissioner of Police, Hyderabad, at Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to

issue a writ order or direction more particularly one in the nature of writ of mandamus to set-aside the G.O.Ms.No.101, Home (PSC), dt.04-06-2005 issued by the 1st respondent and consequntial notification No.Tr.T4/2207/2005, dt.07-06-2005 issued by the 2nd respondent and declare it as illegal,arbitrary, discriminatory and violative of Article 14 and 19 (1)(g) R/w 19(6) of the Constitutions of India and pass such other order or orders.

Counsel for the Petitioner : MR.B.CHANDRASEN REDDY

Counsel for the Respondents: GP FOR HOME

WRIT PETITION NO : 12510 of 2005

Between:

M/s.Sabharwal Travels, A Proprietory Concern, Rep by its Authorised Signatory, Harjeet Singh, S/o.Late .Jagdish Singh, 40 Yrs, Business, R/o.4-1-356/3, Hanuman Tekdi, Near Reddy's Hostel, Abids Road , Hyderabad.

..... PETITIONER

AND

1 Government of A.P., Rep by its Principal Secretary, Home Department,

Secretariat, Hyderabad.

2 The Commissioner of Police Hyderabad, at Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus to set-aside the G.O.Ms.No.101, Home (PSC), dt.04-06-2005 issued by the 1st respondent and consequential notification No.Tr.T4/2207/2005, dt.07-06-2005 issued by the 2nd respondent and declare it as illegal, arbitrary, discriminatory and Violative of Articles 14 and 19(1)(g) R/w 19(6) of the Constitution of India and pass such other order or orders.

Counsel for the Petitioner : MR.B.CHANDRASEN REDDY

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 12511 of 2005

Between:

M/s.Jabar Travels, a Proprietary Concern rep.by its Auth. Signatory, Syed Basheer Ahmed, S/o.Syed Mohammed Saheb, R/o.6-1-1082,29, Hotel Krishna Complex, Lakdikapool, Hyderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh, rep.by its Prl.Secretary, Home Department,

Secretariat, Hyderabad.
2 The Commissioner of police, Hyderabad, at Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nautre of writ of Mandamus to set-aside the G.O.Ms.No.101, Home (PSC), dt.04-06-2005 issued by teh 1st respondent and consequential notification No.Tr.T4/2207/2005, dt.07-06-2005 issued by the 2nd respondent and declare it as illegal, arbitrary, discriminatory and violative of Article 14 and 19(1)(g)R/W 19(6) of the Constitution of India and pass such other order/s as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.B.CHANDRASEN REDDY

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 12512 of 2005

Between:

M/s.Nakoda Travels, Aproprietory Concern, Rep by its Authorised Signatory, M.Ramu, S/o.Late Sri M.Pentaiah, 25 Yrs, Business, R/o.11-4-692, Nilofar Hospital Road, Redhills, Lakdikapool, Hyderabad.

..... PETITIONER

AND

1 Government ofA.P, Rep by its Prl.Secretary, Home Department, Secretariat,

Hyderabad.

2 The Commissioner of Police, Hyderabad , at Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to to issue a writ order or direction more particularly one in the nature of writ of mandamus to set-aside the G.O.Ms.No.101, Home (PSC), dt.04-06-2005 issued by the 1st respondent and consequential notification No.Tr.T4/2207/2005, dt.07-06-2005 issued by the 2nd respondent and declare it as illegal, arbitrary, discriminatory and Violative of Article 14 and 19(1)(g) R/w 19(6) of the Constitution of India and pass such other order or orders.

Counsel for the Petitioner : MR.B.CHANDRASEN REDDY

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 12513 of 2005

Between:

M/s Diamond Travels A Proprietary concern, represented by its authorised Signato
R/o.Shop No.17, Jamuna Arcade, Jambagh, Hyderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh represengted by its Principal Secretary
Home Department, Secretariat, Hyderabad.

2 The Commssioner of Police Hyderabad at Basheerbagh,. Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus to set aside the G.O.Ms.No.101, Home (PSC) dt.4.6.2005 issued by the 1st respondent and consequential notification No.Tr.T4/2207/2005,issued by the 2nd respondent and declare it as illegal, arbitrary, discriminatory and violative of Article 14 and 19 (1) (g) R/w 19(6) of the Constitution of India and pass such other order.

Counsel for the Petitioner : MR.B.CHANDRASEN REDDY

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 12514 of 2005

Between:

M/s. Venson Travels, A Proprietary Concern, Rep. by its Authorised Signatory, Sridhar, S/o. Chalapathy, aged about 33 Years, Occ: Business, R/o. 1-7-196, S.D. Road, Secunderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Rep. by its Principal Secretary, Home Department, Secretariat, Hyderabad.
2 The Commissioner of Police, Hyderabad, at Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus to set-aside the G.O.Ms.No. 101, HOme (PSC), dt. 04-06-2005 issued by the 1st respondent and consequential notification No. Tr.T4/2207/2005, dt. 07-06-2005 issued by the 2nd respondent and declare it as illegal, arbitrary, discriminatory and violative of Article 14 and 19 (1)(g) R/w 19(6) of the Constitution of India and pass such other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.B.CHANDRASEN REDDY

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 12515 of 2005

Between:

M/s. KPN Travels (P) Ltd. A Private Limited Company, Represented by its Authorised Signatory, Harjeet Singh, S/o. Late Jagdish Singh, Aged about 42 years, Occ : Business, R/o. 4-1-356/3, Hanuman Tekdi, Near Reddy Hostel, Abids, Hyderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Represented by its Principal Secretary, Home Department, Secretariat, Hyderabad.
2 The Commissioner of Police, Hyderabad, as Basheerabagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus to set-aside the G.O.Ms.No. 101, Home (PSC), dt. 04-6-2005 issued by the 1st respondent and consequential notification No. Tr.T4/2207/2005, dt. 07-6-2005 issued by the 2nd respondent and declare it as illegal, arbitrary, discriminatory and violative of Article 14 and 19 (1)(g) R/w 19960 of the Constitution of India and pass such other order/s as this Hon'ble Corut may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.B.CHANDRASEN REDDY

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 12516 of 2005

Between:

M/s Khurana Travels, A Proprietary Concern, rep. by its Authorised Signatory Mohd, Farooq, S/o Mohd. Gafoor, aged 30 years, Occ: Business, R/o 15-1-664/6, Old Feelkhana, Goshamahal Road, Hyderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh,. rep. by its Principal Secretary, Home Department, Secretariat, Hyderabad.
2 The Commissioner of Police, Hyderabad, at Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus to set aside the G.O.Ms.No. 101, Home (PSC), dt. 4-6-2005 issued by the 1st respondent and consequential notification No. Tr.T4/2207/2005, dt. 7-6-2005 issued by the 2nd respondent and declare it as illegal, arbitrary, discriminatory and violative of Article 14 and 19 (1) (g) R/w 19(6) of the Constitution of India and pass such other order/s as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.B.CHANDRASEN REDDY

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 12552 of 2005

Between:

M/s. Southern Tourist, A Proprietary concern rep.by its Authorized Signatory, Giridhar Kumar, S/o.Eshwar, R/o.6-1-1082/31, Hotel Krishna Complex, Lakdikapool, Hyderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh, rep.by its Prl.Secretary, Home Department,

Secretariat, Hyderabad.
2 The Commissioner of police, Hyderabad, at Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus to set-aside the G.O.Ms.No.101, Home (PSC) dt.04-06-2005 issued by the 1st respondent and consequential notification No.Tr.T4/2207/2005, dt.07-06-2005 issued by the 2nd respondent and declare it as illegal, arbitrary, discriminatory and

violative of Article 14 and 19(1)(g) r/w 19(6) of the Constitution of India and pass such other order/s as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.B.CHANDRASEN REDDY

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 12627 of 2005

Between:

M/s Pooja Travels, A Proprietary concern, rep. by its Authorised Signatory

S.S. Mohinuddin S/o S.S. Dilawaruddin, aged 30 years, Occ: Business,
R/o Shop No.6, King Koti, Kanchanjunga Complex, Hyderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Rep. by its Principal Secretary,
Home Department, Secretariat, Hyderabad.
2 The Commissioner of Police, Hyderabad, at Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus to set aside the G.O.Ms.No. 101, Home (PSC), dt. 4-6-2005 issued by the 1st respondent and consequential notification No. Tr.T4/2207/2005, dt. 7-6-2005 issued by the 2nd respondent and declare it as illegal, arbitrary, discriminatory and violative of Article 14 and 19 (1) (g) R/w 19(6) of the Constitution of India and pass such other order/s as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.B.CHANDRASEN REDDY

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 12663 of 2005

Between:

M/s. Southern Travels Pvt. Ltd. A. Private Limited Company, Rep. by its
Rao, Aged about 42 yrs, Occ: Business, R/o.No. 7 & 8, Mustafa Towers, Near Hotel Ayodhya, Lakdikapul, Hyderabad-4,

..... PETITIONER

AND

1 Government of Andhra Pradesh, Rep. by its Principal Secretary, Home

Department, Secretariat, Hyderabad.

2 The Commissioner of Police, Hyderabad, at Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus to set-aside the G.O.Ms. No.101, Home (PSC) dt. 4-6-2005 issued by the 1st Respondent and consequential notification No. Tr. T4/2207/2005, dt. 7-6-2005 issued by the 2nd respondent and declare it as illegal, arbitrary, discriminatory and violative of Article 14 and 19(1)(g) R/w 19(6) of the Constitution of India and pass such other order/s as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.B.CHANDRASEN REDDY

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 12705 of 2005

Between:

M/s. Shameem Transport, a prop. Concern rep.by its Authorized Signatory, S.Devener Singh, S/o.late S.Jaswanth Singh, R/o.4-1-158, Hanuman Takdi, Abids, Hyderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh, rep.by its Principal Secretary, Home

Department, Secretariat, Hyderabad.
2 The Commissioner of Police, Hyderabad, at Basheerabagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus to set-aside the G.O.Ms.No.101, Home (PSC), dt.04-06-2005 issued by the 1st respondent and consequential notification No.TrT4/2207, dt.7.6.2005 issued by the 2nd respondent and declare it as illegal, arbitrary, discriminatory and violative of Article 14 and 19(1)(g) R/w 19(6) of the Constitution of India and pass such other order/s as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.B.CHANDRASEN REDDY

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 12919 of 2005

Between:

1 B. Veeramanohar Reddy S/o. B. Veerabhadra Reddy, R/o.24/618,

Vasanthapet, Proddutur, Kadapa District. (AP04/T 6698, AP04/U 5588)
2 G. Bali Reddy S/o. Gurivi Reddy, R/o.24/618, Vasanthapet, Proddutur, Kadapa District. (AP04/U 5288, AP04/T 6689)
3 B. Venkatasubbamma W/o.B. Veerabhadra Reddy,R/o.24/618, Vasanthapet,

Proddutur, Kadapa District. (AP04/U 3488, AP04/V 0788)
4 B. Savitramma W/o. B. Narayana Reddy, R/o.24/617, Vasanthapet

Proddutur, Kadapa District. (AP04/U 3588)
5 B. Jayalakshmi W/o. Pratap Reddy, R/o.24/615, Vasanthapet Proddutur Kadapa District. (AP04/V 1188)
6 B. Pratap Reddy S/o. Balaveer Reddy, R/o.24/615, Vasanthapet, Proddutur, Kadapa District. (AP04/U 2688)
7 B. Chinna Reddy S/o. Balaveera Reddy, R/o.24/616, Vasanthapet,

Proddutur, Kadapa District. (AP04/U 2598)
8 B.V. Sudhakar Reddy S/o. Veerabhadra Reddy, R/o.24/618, Vasanthapet,

Proddutur, Kadapa District. (AP04/V 0698)
9 G. Guruprasad Reddy S/o. Bali Reddy, R/o.24/618, Vasanthapet Proddutur Kadapa District. (AP04/V 0689)
10 P. Lalithamma W/o. Mallikarjuna Rao, R/o.5/439, Sambaiahgari Veedi,

Proddutur, Kadapa District. (AP04/U 6435)
11 P. Nageswara Rao S/o. P.P. Subbanna, CGR & PPS Travels 7 Roads Kadapa. (AP04/U 6435, AP04/t 7788, AP23/T 6036)
12 P. Mallikarjuna Rao S/o. P.P. Subbanna, 5/439, Sambaiahgari Veedhi

Proddutur, Kadapa District. (AP04/T 7888).
13 A. Suresh Kumar Reddy S/o. A. Mallikarjuna Reddy, 12/577, Kotastreet

Proddutur, Kadapa District. (AP04/U 8118).
14 A. Saraswathi W/o. A. Suresh Kumar Reddy,12/577, Kotastreet Proddutur Kadapa District. (AP04/V 1212).
15 B.C.Venkata Reddy S/o. B. Venkata Reddy, 3/945,YMR Colony Proddutur Kadapa District. (AP04/U 7997).
16 B. Thulasamma W/o. B.C. Venkata Reddy, 3/945,YMR Colony, Proddutur Kadapa District. (AP04/V 1616).

17 N. Ramgopal S/o. Pandurangaiah, 8/576, Main Bazar, Tadpatri Ananthapur

District (AP02/T 6624, AP02/U 6623, AP02/U 7386, AP02/U 7387,

AP02/U 7742, AP02/7743, AP02/U 9550, AP02/U 9551)
18 Sri Madhavi Traders Rep.by Janardhanpuranica, S/o.K.Nagappa Puranica
R/o. D.No.21/358, 7 Roads, Kadapa AP04/U 9000, AP04/U 9090, AP04/V

2223, AP04/V 22321
19 V. Syamala W/o. Ramachandra Reddy, R/o.7/587-1, Jayanagar Colony

Kadapa (AP04/U 9567)
20 L. Rayal Reddy S/o. Bali Reddy, R/o. 1/703-3, Dwarakanagar, Kadapa.
(AP04/U 3663)
21 Y. Vijayabhaskara Reddy S/o. Anthoni Reddy, 1/719, Dwarka Towers 7

Roads, Kadapa. (AP04/U 9576)
22 C. Manohar Reddy S/o. C. Sidda Reddy, R/o. 5/448, Ravindranagar

Kadapa. (AP04/U 8801, AP23/T 6034, AP04/V 1615)
23 C. Purushotham Reddy S/o. C. Sidda Reddy, R/o. 5/448, Ravindranagar

Kadapa.(AP04/U 8802)
24 M. Viswam S/o. M.P. Annaiah,18/462, Ravindranagar Kadapa.
(AP04/U 2449)

25 M. Gopinath S/o. M.P. Annaiah, 18/462, BKM Street Kadapa.
(AP04/U 2629, AP04/V 2345, AP04/V 2729)
26 P. Venkata Rami Reddy S/o. R. Chinnaobule Reddy
4/594, Kotireddy Street, Kadapa. (AP04/U 6209, AP04/U 6210, AP04/U

9589 AP04/U 9604, AP04/U 7554, KA20/B-55)
27 T. Narayana Reddy S/o. Eswara Reddy, 2/365, Balajinagar, Kadapa

Kadapa.(AP04/U 9906).
28 R. Govinda Reddy S/o. Jayarami Reddy, 2/366, Balajinagar, Kadapa

Kadapa.(AP04/9903).
29 P. Balaobula Reddy S/o. Chinnaobula Reddy, 20/908, Co-operative Colony,

Kadapa. (AP04/U 6199, AP04/U 6200, AP04/U 8870, AP04/U 8871)
30 R. Ramasubbamma W/o. Balaobula Reddy, 20/908, Co-operative Colony,

Kadapa. (KA19/B 3645, KA19/B 2727)
31 N. Jhansivani W/o. Sasidhar,15/777, Kandanagar Ananthapur
(AP02/U 4245, AP02/U 4344, AP02/U 9969)
32 N. Sasidhar S/o. Ramakrishna,15/777, Kandanagar Ananthapur
(AP02/U 9996)
33 Y. Sivasankar Reddy S/o. Mahanandi Reddy
25/20, Samjeevnagar, Nandyal (AP21/U 9788, AP21/U 6464)
34 Y. Krishna Reddy S/o. Sivasankar Reddy
25/20, Samjeevnagar, Nandyal (AP21/U 9799, AP21/U 5445)
35 B. Sudhakar Reddy S/o. B.C. Ramasubba Reddy
25/228, Samjeevnagar, Nandyal (AP21/U 2788)
36 G. Pulla Reddy S/o. Seshi Reddy, 25/616, upstairs, Sreenivasa NAgar

Nandyal (AP21/U 3499, AP12/U 4678)
37 Srivari Travels Rep.by D. Raja Reddy, Plot.No.303, Siddu Residency

Basheerbagh, Hyderabad (AP09 X 2358, AP09 X 2451)
38 N.P. Ramachandra Naidu S/o. N.P.C. Naidu
20/4, Naidu Buildings Chittoor,(AP03 U 5166, AP03 U 5199, AP03 U

6099, AP03 U 6799)
39 Jahangeer Basha S/o. Akbar Saheb,16/243, S.C.B. Road Madanapalli
(AP04 U 3654, AP04 U 3645, TN 27 L 3000, TN 27 L 6000, KA02 D 9099,

KA02 D 9909)
40 Raja Travels Rep. by G. Basi Reddy, S/o. Koti Reddy
HIG 136, BHEL, Ramachandrapuram, Hyderabad. (AP09 X 8567, AP09 X

8568, AP09 X 8585, AP09 X 8587, AP09 X 9107, AP09 X 9108, AP09 X

9121, AP09 X 9122 AP09 Y 255, AP09 Y 256)
41 G.V. Sreenivasulu S/o. G. Venkatapathi, Bus Owner, Guljarpet (KA01 F

6176)
42 G. Ravindranath S/o. Venkatachalapathi
Guljarpet, Ananthapur (AP02 T 6666)
43 Diwakar Roas Lines Rep. by Smt J. C. Uma Reddy, W/o. Prabhakar Reddy
15/221, Sanjeevnagar, Tadipatri (AP02 U 9459, AP02 U 9549, AP02 U

189, AP02 U 279, AP02 U 8019, AP02 U 7929, AP02 U 7848, AP02 U

7839, AP02 U 8649,AP02 U 8469,AP02 U 9639,AP02 U 9369, AP02 U

9009, AP02 U 9090, AP02 U 8919, AP02 U 8829, AP02 U 7578, AP02 U

7659, AP02 U 6390, AP02 U 9189 and AP02 U 9279.
44 Padmavathi W/o. N. Sreenivasulu
Bus Owner, Ananthapur (AP02 U 7367, AP02 U 7368)
45 N. Sreenivasulu S/o. N. Muniratnam, Bus Owner, Ananthapur (AP02 U

999)
46 D.V. Ramesh S/o. D. Subbanna, Bus Owner, Ananthapur (AP23 U 89)

47 P. Sujatha W/o. B.A. Linga Reddy, Bus Owner, Chitradurga, Karnataka

State. (KA16 C 1233, KA16 D 1233, AP02 U 4563)
48 B.S. Pushpalatha W/o. Chidananda Reddy
Bus Owner, Chitradurga, Karnataka State. (AP02 U 3443)
49 Sumangala Bhanuprakash W/o. Bhanuprakash
Bus Owner, Tumkur, Karanataka State. (KA 06 6138, KA06 6139)
50 J. Shobharani W/o. Jagadeswara Reddy,
11/6, Nabikot, Kadapa (AP04 U 3979, AP04 U 3978)

..... PETITIONERS

AND

1 Government of A.P Rep.by its Prl. Secretary, Home Department, Secretariat, Hyderabad.
2 The Commissioner of Police, Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring G.O.Ms.No.101, Home (PSC) dated 04/06/2005 as illegal, arbitrary, discriminatory, ultra vires and violative of Article 14 and Article 19(1) (g) of the Constitution of India and consequently set aside and grant such other relief or reliefs as deemed it in the circumstances of the case.

Counsel for the Petitioners : MR.NOUSHAD ALI

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 13007 of 2005

Between:

1 Sri H.S.C. Bose S/o Ramachandra Rao
No. 16/2, Kalasipalem Bus Stand, Banglore
2 K. Srinivas S/o Rama Swamy
R/o Near benz Circle, Life Hospital road, Vijayawada
3 Smt. B. Snehalatha W/o B. Ram Babu
12-6th Main, Jeevan Bhimanagar, New Thippasandra, Banglore-75
4 Sri C.H. Manohar, S/o Ramachandraiah
33 8th Main Road Op: LIC Colony, New Thippasandra, Banglore-75
5 M/s. Sangeetha Travel Agency, rep by K.M. Patel R/o No. 10 Byrasandra

Jayanagar, Banglore-11
6 M/s. Sahara Travels, rep by Mustaq Ahmed
17-4, TSP Road, 2nd Cross, Kalasipalem, banglore-2
7 K. Vijaya Kumar S/o Ram Mohan Rao
Shop NO.2 Kuthu Complex, Lakdikapool, Hyderabad
8 M/s. Gagana Tours & Taravels, rep by S. Dharmender R/o 1-11-218,

Begumpet, Hyderabad
9 M/s. Sudha Creations, rep by M. Santharam Naidu Flat No. 103, Vijayasree

Apartments, Begumpet, Hyderabad
10 M/s. Dhanunjaya Tours & Travels, rep by D.V.V.S. Raju P. No. Hastinapuri,

Sainikpuri, Ranga Reddy District
11 M/s. K.V.R. Transports & Travels rep by K.V.K. Viswanatha Raju R/o D-

96, madhuranagar, Hyderabad
12 K. Sivanath S/o Ramaswamy, R/o 21-1-60, Temple STreet, Kakinada

..... PETITIONERS

AND

1 Government of Andhra Pradesh, rep by its Principal Secretary,

Home Department, Secretariat, Hyderabad
2 The Commissioner of Police, Hyderabad City, Basheerbagh, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ in the nature of the Writ of mandaus or any other appropriate WRit, direction or order declaring rules in the notification in G.O.Ms. No. 101, Home (PSC) Department dt 4-6-2005 as illegal, arbitrary unjust and void and to pass such other order or orders as this Hon'ble Court may be deem fit and proper in the circumstances of the case

Counsel for the Petitioners : MR.B.SIVA RAMA KRISHNAIAH

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 13021 of 2005

Between:

M/s.National Travels, a Proprietary concern, rep., by its Authorised Signatory Syed Maqsood Ali, S/o Syed Jeelani Miya, r/o 11-5-422/A/3/A, Red Hills, Hyderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh, rep., by its Principal Secretary, Home

Department, Secretariat, Hyderabad.

2 The Commissioner of Police, Hyderabad, at Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus to set aside the G.O.Ms.No.101, Home (PSC) dt.04-06-2005 issued by the 1st respondent and consequential notification No.Tr.T4/2207/2005 dt.07-06-2005 issued by the 2nd respondent and declare it as illegal, arbitrary, discriminatory and violative of Article 14 and 19(1)(g) r/w 19(6) of the Constitution of India and pass such other order/s as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.B.CHANDRASEN REDDY

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 13054 of 2005

Between:

1 Muniratnam Mudaliar A.M. S/o.A.Mudiliyananda Mudaliar
R/o.146, t.P.Area, Tiruapathi, Chittoor District.

2 Nameen A.M. S/o. A.M. Muniratnam Mudaliar
R/o.15-311, Sanjeeva nagar Tadipatri, Ananthapur District.
3 Saravanan A.M. S/o. A.M. Muniratnam Mudaliar
R/o.T.P.Area Tadipatri, Ananthapur District.

..... PETITIONERS

AND

1 Government of Andhra Pradesh rep. by its Principal Secretary,

Home Department, Secretariat, Hyderabad.
2 The Commissioner of Police, Hyderabad City, Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, in the nature of the writ of Mandamus or any other appropriate writ direction or order declaring the notification in G.O.Ms.No.101, Home (PSC) Department Dt.4.6.2005 as illegal, arbitrary, unjust and void and to pass such other order or orders.

Counsel for the Petitioners : MR.B.SIVA RAMA KRISHNAIAH

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 13089 of 2005

Between:

M/s.HKB Enterprises Pvt., Ltd., A Private Ltd. company, rep.by its Auth. Signatory, Mohd. Abubaker Khan, S/o.Mohd.Humayun Khan, R/o.6-1-70/1/A, Lakdikapul, Near Hotel Ashoka, Hyderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh, rep.by its Prl.Secretary, Home Department,

Secretariat, Hyderabad.
2 The Commissioner of police, Hyderabad, at Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus to set-aside the G.O.Ms.No.101, Home (PSC), dt.04-06-2005 issued by the 1st respondent and consequential notification No.Tr.T4/2207/2005, dt.07-06-2005 issued by the 2nd respondent and declare it as illegal, arbitrary discriminatory and violative of Article 14 and 19(1)(g) R/w 19(6) of the Constitution of India and pass such other order/s as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.B.CHANDRASEN REDDY

Counsel for the Respondents : GP FOR HOME

WRIT PETITION NO : 13141 of 2005

Between:

M/s. Intercity Transport Co. Rep. by its Prop. Mr. S. Venkat Reddy
R/o. Plot No. A9 & A10, AIE, Balanagar, Beside CITD, Ranga Reddy District.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Rep. by its Principal Secretary,

Home Department,

2 The Commissioner of Police, Hyderabad, at Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus to set-aside the G.O,.Ms.No. 101, Home (PSC), dt. 4-6-2005 issued by the 1st respondent and consequential notification No. Tr.T4/2207/2005 dt. 7-6-2005 issued by the 2nd respondent and declare it as illegal, arbitrary, discriminatory and violative of Article 14 and 19 (1)(g) R/w 19(6) of the Constitution of India and pass such other order or orders as this Hon'ble Court may deems fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.A.V.SESHA SAI

Counsel for the Respondents : GP FOR HOME

The Court made the following :

COMMON ORDER : (Per Hon'ble Sri Bilal Nazki, ACJ)

These writ petitions were heard together as they raise common questions of law and fact. A common counter has been filed by the respondents. For facts, reference shall be made to writ petition No.12509 of 2005.

The petitioners challenge G.O.Ms.No.101, Home (PSC), dated 04.06.2005 issued by the 1st respondent and consequential notification No.Tr.T4/2207/2005, dated 07.06.2005 issued by 2nd respondent. Government Order and the Notification are challenged on various grounds, as illegal, arbitrary and violative of Articles 14 and 19(1)(g) of Constitution of India.

The controversy dates back to February 2005, when 2nd respondent had issued Notification No.Tr.T4/719/2005 imposing restrictions in the movement of private buses with effect from 26.2.2005. The restriction was that the private buses shall not ply over the arterial roads of the City from 7 a.m. to 10 p.m. The said notification was challenged before this High Court in writ petition No.4557 of 2005 and batch. Initially the notification was suspended by the High Court. Subsequently, the 2nd respondent withdrew the notification and the writ petitions were disposed of. It is stated that the present notification which is impugned in these writ petitions, is almost identical to that of the earlier one, excepting that the rules now framed in the Government Order and the restrictions placed on the movement of private buses in the City is between 7 a.m. and 11 p.m. It is contended that the Government Order was issued without any application of mind and was against public interest.

The petitioners contend that they are transport operators and have valid permits to ply their vehicles as contract carriages/tourist buses permitted in Hyderabad City/have contract carriage permits valid throughout the State of

Andhra Pradesh/holding All India Permits covering certain States for different vehicles, issued by the Transport Authority of Karnataka State. The different permits enable the petitioners to operate the vehicles in various routes. They submitted that the Government Order purported to have been issued under Section 21 of the Hyderabad City Police Act, 1348 F (hereinafter referred to as 'the City Police Act'), placing a bar over movement of their vehicles in Hyderabad and Secunderabad Cities between 0700 hours and 2300 hours, was illegal and therefore, the said Government Order and Notification deserves to be quashed.

Respondent No.2 has filed a common counter in which it is admitted that the earlier notification which was challenged in writ petition Nos.4557, 4576 and 4661 of 2005 was withdrawn and a fresh notification was issued following the procedure laid down by the City Police Act. It is submitted that the impugned notification was sent to the Government for its approval and after the Government examined the rules framed, they issued G.O.Ms.No.101, dated 4.6.2005. The notification was gazetted in the official gazette of Andhra Pradesh on Monday the 6th of June 2005 and all concerned were informed through Press and electronic media on 07.06.2005. Respondent No.2 further states that movement of private buses was restricted through the notification issued by him. The effect of the notification is that the private buses are allowed to ply on all routes of twin cities of Hyderabad and Secunderabad between 11 p.m. and 7 a.m. It is further submitted that before the notification was issued, all the Statutory requirements were met by the official respondents and therefore, the notification was legally valid. It is further submitted that if a bus starts from Hyderabad or Secunderabad, it has to invariably pass through the arterial roads and hence the restriction was imposed on movement of the private buses during the timings mentioned. The notification and the Government Order were issued in view of congestion of traffic and in the larger public interest. There are nearly 450 arrivals and 450 departures of private buses every day from twin cities and this creates lots of traffic jams during peak hours and to avoid such traffic jams, the present notification was issued. It is further submitted that private buses start from surrounding areas of the City in order to reach their destination and enroute, each private bus picks up passengers from important junctions before it reaches the highway, proceeding

to its destination. It is also submitted that in the process of picking up the passengers, the bus operators park their buses on the busy junctions in such a way that they obstruct the free flow of traffic, which causes inconvenience to the commuters in the City. All private bus operators have booking offices, which are used for dropping and picking up the passengers from these particular places. The bus operators do not have parking places of their own and as such they park the buses on the main roads, thus creating serious inconvenience to other commuters and also obstructing the traffic flow. It is also submitted that intra city buses engaged for taking school going children and contract carriers engaged for marriages and other functions, including that of tourism and excursion etc., are exempt from the notification. The petitioners' buses are contract carriages, but in reality they are being used as stage carriages by picking up the passengers from various places, where the booking counters are located. These private bus operators invariably stop their buses at every A.P. State Road Transport Corporation (hereinafter referred to as 'APSRTC') bus stage in order to pick up passengers in busy hours. The restrictions imposed would apply only to Inter-District and Inter-State private buses. It is further submitted that the impugned notification and the Government Order do not place any prohibition on the movement of buses, but only impose reasonable restrictions. Most of the buses leave the City around 11 p.m. and reach the City around 7 a.m. There was no inconvenience caused to the private bus operators or the passengers, who travel through them.

In the light of these pleadings, the learned Counsel for the petitioners has attacked the impugned notification and the Government Order on various grounds. Mr.E.Manoher, senior counsel contended that there was a distinction between 'regulation' and 'restriction' and the Commissioner had placed restrictions on movement of the buses, which power he did not have. Mr.Manoher submits that the impugned Government Order is purported to have been issued in terms of the power available to the Government under Clause (b) of sub-sections (1) and (2) of Section 21 of the Police Act and this is a power, which can be used only for regulating the traffic and not for restricting it. Section 21 of the Police Act lays down that the Commissioner of Police may make rules not inconsistent with the Act in respect of matters which are enumerated in clauses (b) and (c), subject to the control of the Government and for the remaining clauses, he may make rules subject to prior sanction of

the Government for enforcement of those rules. Clause (b) of sub-section (1) of Section 21 of the Police Act lays down;

> *"regulating traffic of all kinds, in public street or public places, and regulating the use of streets and public places by persons walking, driving, cycling or accompanying or leading cattle, with a view to prevent danger, inconvenience or obstruction to the public"*

Sub-section (2) of Section 21 lays down;

> *"The power to make rules under sub-section (1) shall be subject to the condition of the rules being enforced after publication and they shall be published in the official gazette in the manner specified in Section 84."*

There is no dispute that the requirements like framing, publication and enforcement of the rules was done by the respondents in accordance with the provisions of Section 21 of the Police Act. But the learned senior counsel contends that the power of the respondents under Section 21(1)(b) is limited to regulating traffic of all kinds, but it gives no power to impose total restriction on movement of the traffic. The learned senior counsel would contend regulation of traffic would not include in its meaning imposition of restriction on traffic and he submits that the matter has already received the attention of this Court and Supreme Court and therefore imposition of restriction between 7 a.m. and 11 p.m. on movement of the buses belonging to the petitioners would amount to imposition of restriction on free movement of vehicles and therefore it cannot be sustained. He placed reliance on a judgment of learned Single Judge of this Court reported in *Mini Taxi Owners' and Drivers Association, Hyderabad & others v. State of A.P. and another*, which was later on confirmed by a Division Bench in appeal, in the judgment reported in *State of A.P. & another V. Mini Taxi Owners' and Drivers Association, Hyderabad.* In this case, the notification dated 15.01.2001 issued by the Commissioner of Police under Section 21 of the Police Act was challenged. By this notification, the Commissioner had prohibited the movement of seven seater Auto Rickshaws in the twin cities of Hyderabad and Secunderabad and they had been asked not to enter the cities of Hyderabad and Secunderabad except for certain areas, which were mentioned in the notification. The contentions, which are being raised before

us, were also raised before the Court in that case. The Court found that it was a case of total prohibition on the use of vehicles and therefore it was set aside by the learned Single Judge. In appeal, the judgment was upheld. The Division Bench noted in paras 17 and 18 as under;

> *"**17**. By reason of the said notification, a complete prohibition has been made as a result whereof except for certain reasons and certain areas, the vehicles cannot enter twin cities at all. The area of the twin cities of Hyderabad and Secunderabad is 168 sq. kilo metres. Indisputably, the said vehicles were being used as passenger vehicles throughout the twin cities of Hyderabad and Secunderabad. By reason of the impugned notification dated 15.1.2001, the movement of such vehicles has been totally prohibited for all 24 hours within the twin cities. In the instant case, power could be exercised by the Commissioner of City Police, Hyderabad for regulating the traffic. Although in a sense, regulation of traffic could include prohibition of entry of some type of vehicles in some public streets or some public places, total prohibition of the vehicles from being plied except at some peripheral areas appears to be unreasonable attracting the wrath of Article 14 of the Constitution. By reason of the said notification, the commuter public in general have totally been deprived of using a class of vehicles in relation whereto, the permits have been granted by the competent authority under the Motor Vehicles Act. The purpose for grant of such permit and the fact that the control in that regard had been taken over by the State under the Motor Vehicles Act had not been taken into consideration. The permits are granted under Section 73 of the Act which can be cancelled or suspended only in terms of Section 86 of the Act. Section 84 of the Act specifies the general conditions attached to the permits.*
>
> ***18**. This although does not mean that for the purpose of regulating the traffic, some sort of restrictions cannot be imposed. Such restrictions can certainly be imposed having regard to the congestion of traffic at some places particularly having regard to the importance of the areas and other areas where schools and colleges are situated. But in the instant case, the restrictions on traffic have not been imposed in certain areas or within the school hours, but total prohibition has been imposed on entry of such vehicles within the boundaries of twin cities. The purported permission of the vehicles in question in some peripheral areas neither would serve the purposes of the commuters nor would fulfil the objects for which the permits have been granted inasmuch as by reason*

thereof, the commuters would not be able to take the benefit of the city cabs to reach their destinations within the main areas of the town and parts thereof."

The learned senior counsel submits that these judgments have conclusively laid down the law that the restrictions imposed by the impugned Government Order are arbitrary and attract Article 14 of the Constitution.

The learned senior counsel has also relied on a judgment of Supreme Court reported in *State of Mysore v. H. Sanjeevaiah.* This is a judgment of a Constitutional Bench of the Supreme Court. Brief facts leading to this judgment would be necessary to be mentioned. The Mysore Forest Act (II of 1900) authorize the State Government to make rules to regulate the transit of forest produce. By virtue of power under Section 37 of the said Act, the Government of Mysore framed rules to regulate the transit of timber, firewood, charcoal and bamboos from all lands. One of the rules provided that no person shall import forest produce into, export forest produce from, or move forest produce within, any of the areas specified in Schedule 'A', unless such forest produce is accompanied by a permit prescribed under the rules. That would mean that forest produce could not be transported without a permit having been issued under the rules. The rule add a proviso also, which said, "*Provided that no such permit shall authorize any person to transport forest produce between sun-set and sun-rise in any of the areas specified in Schedule-A".* A notification had been later issued, providing that the permission may be granted to timber merchants, on their requisition, to transport timber up to 10 p.m. under certain conditions. The contentions of the persons who challenged the notifications were that these rules and provisions were restrictive and therefore were bad in law. The State contended before the Supreme Court that the provisos were regulatory and not prohibitory. It was further contended that every injunction in the form of a prohibition could not be regarded as a restriction upon the right to transport. Power to impose restrictions of the nature contemplated by the two provisos under the relevant rule was sought to be found in the power of the Government to regulate transport of forest produce. The Supreme Court finally held in para 6,

"…… whether or not these are good grounds for imposing

restrictions on transport of forest produce is not a matter with which we are concerned in dealing with the power of the State by rules to restrict the right to transport forest produce. The power conferred upon the State Government is merely "to regulate the transit" of forest produce and not to restrict it. If the provisos are in truth restrictive of the right to transport the forest produce, however, good the grounds apparently may be for restricting the transport of forest produce, they cannot on that account transform the power conferred by the provisos into a power merely regulatory. The High Court was, therefore, in our view, right in holding that the two provisos to R.2 are not regulatory in character, but are restrictive."

Mr.E.Manoher submits that this judgment applies on all fours to the present case. In the case before the Supreme Court also, during night, the goods could not be transported and the power under Rule 2 of the Act before the Supreme Court is similar to the power available to the State Government under Section 21 of the Police Act. In the present case, the restrictions have been imposed on plying of buses during the day time therefore, the impugned notification and the Government Order are not regulatory in character, but are restrictive therefore, it is submitted that the Government Order and the notification are *ultra vires* to Section 21 of the Police Act itself. No doubt Section 21 confers a power to make rules to regulate the traffic, but it does not confer any power, which could enable the State Government to restrict the movement of buses.

Reference is made also to a judgment reported in *Himat Lal K.Shah v. Commissioner of Police, Ahmedabad and another*. This judgment is also by a Constitutional Bench of the Supreme Court. The subject matter of the case was Bombay Police Act, which had almost similar provisions, which the Police Act has and restrictions were imposed in terms of the Police Act by the Commissioner of Police with the previous sanction of the Government for conduct, behaviour and action of persons desirous of conducting processions, holding or convening public meetings in the specified areas. As is contended in the present case, it was contended before the Supreme Court also that Section 33 of the Bombay Police Act did not empower the Commissioner of Police to frame rules, requiring any person to obtain prior permission in writing, for holding a meeting and the rules so framed were in excess of rule making power

and therefore, they are consequently invalid. It was also contended that the rules framed were *ultra vires* to Articles 19(1)(a) and 19(1)(b) inasmuch as they put a total ban on the fundamental rights of freedom of speech and freedom to assemble. The arguments revolved around as to what was meant by "regulating" in Section 33 of the Bombay Police Act. The Supreme Court in Para 30 held;

> *"30. This Court considered the question of the right of citizens to carry on motor transport business on highways in Saghir Ahmad v. State of U. P., (1995) 1 SCR 707 = (AIR 1954 SC 728). The following passage from the judgment of Venkatarama Ayyar J., in C. S. S. Motor Service v. State of Madras, (1952) 2 Mad LJ 894 = (AIR 1953 Mad 279) was approved :*
>
> *"The true position then is, that all public streets and roads vest in the State, but that the State holds them as trustees on behalf of the public. The members of the public are entitled as beneficiaries to use them as a matter of right and this right is limited only by the similar rights possessed by every other citizen to use the pathways. The State as trustees on behalf of the public is entitled to impose all such limitations on the character and extent of the user, as may be requisite for protecting the rights of the public generally; but subject to such limitations the right of a citizen to carry on business in transport vehicles on public pathways cannot be denied to him on the ground that the State owns the highways."*

In para 33 it said;

> *"33. This is true that nevertheless the State cannot by law abridge or take away the right of assembly by prohibiting assembly on every public street or public place. The State can only make regulations in aid of the right of assembly of each citizen and can only impose reasonable restrictions in the interest of public order.*
>
> *This Court in Babula Parate v. State of Maharashtra, (1961) 3 SCR 423 at p. 438 = (AIR 1961 SC 884), rightly observed :*
>
> *"The right of citizens to take out processions or to hold public meetings flows from the right in Art. 19 (1) (b) to assemble peaceably and without arms and the right to move anywhere in the territory of India.""*

He also refers to a judgment of Supreme Court reported in *Municipal Council, Bhopal V. Sindhi Sahiti Multipurpose Transport Co-Op Society Ltd.*. We do not think this judgment is in any way helpful for disposal of the present case.

Mr.Noushad Ali, appeared for some of the petitioners, has drawn our attention to the preamble of the Police Act, which lays down;

> *"Whereas it is expedient to consolidate the law relating to the Hyderabad City Police Act so as to make the Hyderabad City Police an effective means for prevention and detection of crimes, maintenance of peace and investigation into circumstances; it is hereby enacted as follows;"*

His contention is that the rules framed under Section 21 of the Police Act are not in consonance with the preamble of the Act. The Act had been consolidated only for prevention and detection of crimes, maintenance of peace and investigation into circumstances. According to him, any rule made under Section 21 of the Police Act could not be inconsistent with the preamble of the Act, therefore, the impugned rules were not in consonance with the Police Act, but inconsistent with the Police Act and the reasons given for issuing the impugned notification purported to regulate traffic, do not in any way further the case of achieving the objects set out in the Preamble.

Mr.Chandrasen Reddy, also appearing for some of the petitioners in some of the writ petitions, submitted that the impugned notification was unguided exercise of power and therefore could not be sustained. He relies on a judgment of Supreme Court reported in *A. N. Parasuraman Etc., v. State of T.N.*. In para 8 of the judgment, the Court held;

> *"**8**. The provisions of the Act indicate that the State Government has been vested with unrestricted discretion in the matter of the choice of the competent authority under S. 2(2)(c) as also in picking and choosing the institutions for exemption from the Act under S. 22. Such an unguided power bestowed on the State Government was struck down as offending Article 14 in the case of the State of West Bengal v. Anwar Ali Sarkar,: 1952 SCR 284 : (AIR 1952 SC 75). A similar situation arose in Kunnathat Thathunni Moopil Nair*
>
> *v. State of Kerala, (1961) 3 SCR 77 : (AIR 1961 SC 552), where, under S. 4 of the Travancore-Cochin Land Tax Act, 1955, all lands were subjected to the burden of a tax and S. 7 gave power to the*

Government to grant exemption from the operation of the Act. The section was declared ultra vires on the ground that it gave uncanalised, unlimited and arbitrary power, as the Act did not lay down any principle or policy for the guidance of exercise of the decretion in respect of the selection contemplated by S. 7."

We do not find this judgment relevant for the purpose of the present controversy.

He also submits that the Motor Vehicles Act has been enacted for the purpose of public convenience and not for public hardship. He further contends that APSRTC was left out of the purview of the impugned Government Order therefore, the impugned notification was discriminatory. He relies on the judgments reported in *Aravind Ramakant Modawdekar and others v. State of Kerala and others* AND *M/s. Weston Electroniks and another v. State of Maharashtra and another*.

The judgment reported in M/s.Weston Electroniks case (8th supra), in our view, does not lay down any principles which could be imported into the present case. It was a case of imposition of tax at different rates on goods manufactured within the State and goods imported into the State. APSRTC is a public transport carrier and carries passengers even within the twin cities of Hyderabad and Secunderabad, therefore, APSRTC is a class different from the petitioners.

The Special Government Pleader appearing for the respondents, in the first instance, submits that the writ petitioners, on their own, have stated that they hold contract carriage permits granted by the various transport authorities. They have contended that they are using these vehicles as the tourist vehicles carrying on passengers and they cater to contract parties who travel on long distances for the purposes of pilgrimage, marriage, site seeing, etc. Such of the stage carriage buses are already exempt under the present Government Order and the notification and as such, they have no cause of action. In the counter affidavit in para 7, it is stated,

"It is respectfully submitted that the intra city buses engaged for

taking school going childrenand contract carriers engaged for marriages and other functions etc., including that of tourism and excursion are exempted from this Notification."

If a contract carriage in effect becomes a stage carriage by picking up the passengers from various places, and operate as passenger bus, then only the restrictions would apply. We feel there is sufficient force in the argument of the learned Government Pleader as the petitioners themselves have maintained that they are contract carriages and are taking tourists, marriage parties, picnic parties. Then, they could have no grievance with regard to the notifications, because, according to the counter, they are exempt from the application of the notification.

Replying to the argument of the learned counsel appearing for the petitioners, whether the notification and the Government Order are regulatory or restrictive, the learned Government Pleader has submitted that wherever the Supreme Court has held that the regulations were restrictive, there was almost total prohibition and therefore those judgments would not apply as Hyderabad and Secunderabad cities are not declared out of bounds for these vehicles. There is only ban imposed from 7 a.m. to 11 p.m. and from 11 p.m. to 7 a.m., there are no restrictions on the movement of these vehicles even within the cities of Hyderabad and Secunderabad. The learned Government Pleader further contends that the judgment of the Supreme Court referred to by Mr.E.Manoher in *State of Mysore V. H.Sanjeevaiah* (3rd supra) does not lay down an absolute rule that the regulation of the present nature was in fact a restriction. He submits that this subject has attracted the attention of the Supreme Court in the subsequent judgments and in this connection he placed reliance on *K.Ramanathan V. State of Tamil Nadu & otherss*. The Supreme Court considered the Mysore case (3rd supra) and another case in *Narendra Kumar v. Union of India* in para 17 and the following observations of the Supreme Court in the earlier judgment i.e. Mysore case (3rd supra) were reproduced in this judgment as under;

"The Power which the State Government may exercise is however to regulate transport of forest produce, and not the power to prohibit or restrict transport. Prima facie, a rule which totally prohibits

movement of forest produce during the period between sun-set and sun-rise is prohibitory or restrictive of the right to transport forest produce."

The comment made on these observations in this judgment was, "*These observations do not lay down any rule of universal application"*. In para 18, the supreme Court held that the word 'regulation' cannot have any rigid or inflexible meaning as to exclude 'prohibition', which would in other words mean that 'prohibition' includes 'regulation' also. The Supreme Court also found difficulty in defining the word 'regulate', as it was a word of broad import, having a broad meaning and was very comprehensive in its scope. Then the dictionary meanings of the word 'regulate' were taken note of and then in paragraphs 19, 20 and 24 finally, the law was lay down in the following terms;

"19. It has often been said that the power to regulate does not necessarily include the power to prohibit, and ordinarily the word 'regulate' is not synonymous with the word 'prohibit'. This is true in a general sense and in the sense that mere regulation is not the same as absolute prohibition. At the same time, the power to regulate carries with it full power over the thing subject to regulation and in absence of restrictive words, the power must be regarded as plenary over the entire subject. It implies the power to rule, direct and control, and involves the adoption of a rule or guiding principle to be followed, or the making of a rule with respect to the subject to be regulated. The power to regulate implies the power to check and may imply the power to prohibit under certain circumstances, as where the best or only efficacious regulation consists of suppression. It would therefore appear that the word 'regulation' cannot have any inflexible meaning as to exclude 'prohibition'. It has different shades of meaning and must take its colour from the context in which it is used having regard to the purpose and object of the legislation, and the Court must necessarily keep in view the mischief which the Legislature seeks to remedy.

20. *The question essentially is one of degree and it is impossible to fix any definite point at which 'regulation' ends and 'prohibition' begins. We may illustrate how different minds have differently reacted as to the meaning of the word 'regulate' depending on the context in which it is used and the purpose and object of the legislation. In Slattery v. Nalyor [LR (1888) 13 AC 446], the question arose before*

the Judicial Committee of the Privy Council whether a bye-law by reason of its prohibiting internment altogether in a particular cemetery, was ultra vires because the Municipal Council had only power of regulating internments whereas the bye-law totally prohibited them in the cemetery in question, and it was said by Lord Hobhouse, delivering the judgment of the Privy Council :

A rule or bye-law cannot be held as ultra vires merely because it prohibits where empowered to regulate, as regulation often involved prohibition.

24. We find no lawful justification for giving a restricted meaning to the word 'regulating' in clause (d) of sub-section (2) of Section 3 of the Act as not to take in 'prohibiting'. In State of Tamil Nadu V. M/s.Hind Stone [(1981) 2 SCC 205], Chinnappa Reddy, J. referred with approval the observations of Mathew, J. in G.K.Krishnan v. State of Tamil Nadu [(1975) 2 SCR 715] laying down that the word 'regulation' has no fixed connotation and that its meaning differs according to the nature of the thing to which it is applied. The learned Judge also observed ;

In modern statutes concerned as they are with economic and social activities, 'regulation' must, of necessity, receive so wide an interpreta5tion that in certain situations, it must exclude competition to the public sector from the private sector. More so in a welfare State. It was pointed out by the Privy Council in Commonwealth of Australia v. Bank of New South Wales [(1949) 2 All ER 755 (PC)]—and we agree with what was stated therein—that the problem whether an enactment was regulatory or something more or whether a restriction was direct or only remote or only incidental involved, not so much legal as political, social or economic consideration and that it could not be laid down that in no circumstances could the exclusion of competition so as to create a monopoly, either in a State or Commonwealth agency, be justified."

The learned Government Pleader also referred to a judgment reported in *D.K.V.Prasada Rao & others v. Government of Andhra Pradesh*. This was also a judgment, where the meaning of the word 'regulation' fell for consideration before the Court. In para 24 it held;

*"**24**. It would, therefore, be reasonable to deduce that the word*

> *"regulation" is a word of broad import having wide meaning comprehending all facets not only specifically enumerated in the Act but also embrace within its fold the powers incidental to the regulation envisaged in good faith with an eye to the public welfare. Court has to recognize this power of the Government in public interest."*

The learned Government Pleader also submits that the earlier cases in *Mini Taxi Owners' and Drivers Association, Hyderabad & others v. State of A.P. and another* and *State of A.P. & another V. Mini Taxi Owners' and Drivers Association, Hyderabad* (1st and 2nd supra) relating to the seven seater Auto Rickshaws were altogether different cases, where there was total prohibition for seven seaters to enter into the twin cities of Hyderabad and Secunderabad, except for certain peripheral areas therefore, the law laid down in those judgments would not apply to the present case. He relies on a judgment reported in *State of Uttar Pradesh V. Batuk Deo Pati Tripathi & another*. This case was concerning the power of the High Court to frame rules. While holding that the High Court had power under Article 235 of the Constitution to frame rules for regulating the manner in which the control vested in it may be exercised, the Supreme Court also held,

> *"The power to do a thing necessarily carries with it the power to regulate the manner in which the thing may be done. It is an incident of the power itself and indeed, without it, the exercise of the power may in practice be fraught with difficulties which will frustrate, rather than further, the object of the power."*

He also relies on a judgment reported in *State of U.P. and others v. Maharaja Dharmander Prasad Singh and others*. This judgment lays down that the regulatory power, if permits grant of permission, it does not result in exhaustion of power, but comprehends incidental or supplemental power to revoke or cancel the power.

The learned Government Pleader also relied on a judgment reported in *Deepak Theatre, Dhuri v. State of Punjab and others*, in which the Supreme Court held that the power to regulate includes regulation of incidental matters also.

Therefore, what follows is that regulations, could, in a given case, impose restrictions also. Therefore, we do not agree with the learned Counsel for the petitioners that the impugned Government Order was not regulatory, but restrictive and was outside the rule making power of the State in terms of Section 21 of the Police Act.

The learned Government Pleader, while replying to the arguments of Mr.Noushad Ali that under Section 21 of the Police Act, rules could not be made, which would not be in consonance with the preamble of the Police Act, submits that it does not exclude regulation of traffic, which is necessary for maintaining law and order and peace. The preamble of the Act has already been noted by us hereinabove. We do not think that the preamble excludes regulation of traffic, which is necessary for maintenance of peace. Therefore, the impugned Government Order was within the scope of Section 21 of the Police Act and preamble of the Act.

With regard to the argument of Mr.Chandrasen Reddy that under Section 21 of the Police Act, the Government had an unguided power without any guidelines, the learned Counsel for respondents submits that Section 21 of the Police Act is only a rule making power and the rules have to be framed, which may not be in contravention of the Act and this provision has been tested in so many judgments by this Court. Similar provisions have also been tested by Supreme Court in various judgments, which have already been referred to hereinabove.

There were some other arguments made, which needs mentioning. It was argued that the notification refers to arterial roads, but those roads had not been defined. We have seen from the notification, which has been issued by 2nd respondent. That lays down under sub-clause (2) that private buses will not be allowed to pick up passengers from Lakdi-ka-pul, Punjagutta x roads to ESI Hospital, Kachiguda Railway Station road, Afzalgunj, Nampally, CTO junction and on other important roads. It has also been stated,

> *"They should make arrangements to pick up and drop the passengers in the outskirts of the city at the entry points of National and State highways in to Hyderabad and Secunderabad. All private bus operators will follow the above restrictions and make alternate arrangements."*

In this para, it has been laid down that the buses will not be allowed to pick up and drop the passengers at specified places and they have been asked to pick and drop the passengers at the outskirts of the City. Therefore, all routs within the twin cities of Hyderabad and Secunderabad are arterial roads.

The notification has taken note of the road accidents in which these private buses were involved. On the other hand, the petitioners have challenged the contention of the respondents that these buses were more prone to accidents. They submitted certain data, showing thereby that the number of private buses plied by private owners was too small to the over all number of vehicles plying in Hyderabad, that they could not make a difference in the rate of accidents. They further submitted that for almost all the accidents, which take place in the Hyderabad City, the responsibility lies on operators other than the petitioners. We do not think this is an area in which we need to go in, because this Court is not hearing an appeal over the action taken by respondents by issuing the Government Order and Notification, as law is well settled.

For these reasons, we do not find merit in these writ petitions, which are accordingly dismissed. No order as to costs.

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(BILAL NAZKI, ACJ)

8th July 2005.

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(G. CHANDRAIAH, J)

ajr

N.B:

Office shall place the copies of this order in each bundle

after the signatures of their Lordships.

To

1 The Principal Secretary, Home Department, Government of A.P.,

Secretariat, Hyderabad.
2 The Commissioner of Police, Hyderabad, at Basheerbagh, Hyderabad.

3 Two C.Cs. to the GP for Home, High Court of A.P., Hyderabad (OUT)

4 Two C.D. copies.